

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2627**

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**Introduced by Assembly Member Nielsen**

February 19, 2010

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~~An act to add Chapter 11.7 (commencing with Section 21900) to Division 8 of the Business and Professions Code, relating to business. An act to amend Section 999.2 of the Military and Veterans Code, relating to veterans.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2627, as amended, Nielsen. ~~Businesses: services for minors. Veterans: contracts: disabled veteran business enterprises.~~

*Under existing law, any state governmental entity that awards contracts for construction and certain related purposes has annual statewide participation goals of not less than 3% for disabled veteran business enterprises, as defined. For purposes of these provisions, existing law defines a "disabled veteran" as a veteran, as specified, with a service-connected disability who is a resident of the state.*

*Existing law deems any disabled veteran business enterprise that rents equipment to an awarding department to be an equipment broker, as defined, unless one or more certified disabled veterans have 51% ownership of the equipment and evidence is submitted in support of that fact.*

*This bill would also deem a disabled veteran business enterprise that rents equipment to a contractor to be an equipment broker, as specified. The bill would also revise various related definitions pursuant to those provisions, including "broker" or "agent," "equipment," and "equipment broker."*

*Existing law also prohibits state funds expended for equipment rented from equipment brokers, as specified, from being credited toward the 3% goal.*

*This bill would instead require the broker's commission fees of state funds expended through a broker or equipment broker to be credited toward the participation goals as established for disabled veteran business enterprises.*

~~Existing law prohibits a person who is required to register as a sex offender because of a conviction for a crime where the victim was a minor under 16 years of age from being an employer, employee, independent contractor, or volunteer with any person, group, or organization in a capacity where the person would be directly working, and in an unaccompanied setting, with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children.~~

~~This bill would require any person, entity, group, or organization, whether operating as a nonprofit or for-profit business, to require any person hired as an employee, independent contractor, or volunteer to work directly and in an unaccompanied setting with minor children to go through a criminal background check, including being fingerprinted. The bill would prohibit a person, entity, group, or organization from hiring any person to work directly and in an unaccompanied setting with minor children if that person is required to register as a sex offender for a crime where the victim was a minor. A violation of that prohibition would be punishable by a civil fine of up to \$10,000. Moneys from those fines would be placed in the Safe Sports Fund, which the bill would create, and would be available, upon appropriation, to compensate victims of sexual offenses who were minors at the time of the offense, and their families.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 999.2 of the Military and Veterans Code
- 2     is amended to read:
- 3     999.2. (a) Notwithstanding any other provision of law,
- 4     contracts awarded by any state agency, department, officer, or
- 5     other state governmental entity, including school districts when
- 6     they are expending state funds for construction, professional

1 services (except those subject to Chapter 6 (commencing with  
2 Section 16850) of Part 3 of Division 4 of Title 2 of the Government  
3 Code), materials, supplies, equipment, alteration, repair, or  
4 improvement shall have statewide participation goals of not less  
5 than 3 percent for disabled veteran business enterprises. These  
6 goals apply to the overall dollar amount expended each year by  
7 the awarding department.

8 (b) For purposes of this section:

9 (1) "Broker" or "agent" means any individual~~or~~, entity,  
10 *contractor*, or any combination thereof, that does not have title,  
11 possession, control, and risk of loss of materials, supplies, services,  
12 or equipment provided to an awarding department, unless one or  
13 more certified disabled veterans has 51 percent ownership of the  
14 quantity and value of the materials, supplies, services, and of each  
15 piece of equipment, *materials, or supplies* provided under the  
16 contract *or subcontract*.

17 (2) "Equipment" means any piece of equipment that is used or  
18 provided for *sale or* rental to any state agency, department, officer,  
19 ~~or~~ other state governmental entity, *or contractor*, including  
20 equipment for which operators are provided.

21 (3) "Equipment broker" means any broker or agent who rents  
22 equipment to an awarding department *or contractor*.

23 (c) A disabled veteran business enterprise that rents equipment  
24 to an awarding department *or contractor* shall be deemed to be an  
25 equipment broker unless one or more disabled veterans has  
26 51-percent ownership of the quantity and the value of each piece  
27 of equipment. If the equipment is owned by one or more disabled  
28 veterans, each disabled veteran owner~~shall~~, prior to performance  
29 under any contract *or subcontract*, *shall* submit to the awarding  
30 department a declaration signed by the disabled veteran owner  
31 stating that the owner is a disabled veteran and providing the name,  
32 address, telephone number, and tax identification number of the  
33 disabled veteran owner. Each disabled veteran owner shall submit  
34 his or her federal income tax returns to the administering agency  
35 pursuant to subdivision (g) as if he or she were a disabled veteran  
36 business enterprise. The disabled veteran business enterprise of a  
37 disabled veteran owner who fails to submit his or her tax returns  
38 will be deemed to be an equipment broker.

39 (d) A disabled veteran business enterprise that rents equipment  
40 to an awarding department *or contractor* shall, prior to performing

1 the contract, submit to the awarding department a declaration  
2 signed by each disabled veteran owner and manager of the  
3 enterprise stating that the enterprise obtained the contract by  
4 representing that the enterprise was a disabled veteran business  
5 enterprise meeting and maintaining all of the requirements of a  
6 disabled veteran business enterprise. The declaration shall include  
7 the name, address, telephone number, and tax identification number  
8 of the owner of each piece of equipment identified in the contract.

9 (e) ~~State~~ *Of state funds expended for equipment rented from*  
10 ~~equipment brokers through a broker or equipment broker, pursuant~~  
11 ~~to contracts awarded under this section, the broker's commission~~  
12 ~~fees only shall not be credited toward the 3-percent goal~~  
13 ~~participation goals established for disabled veteran business~~  
14 ~~enterprises.~~

15 (f) A disabled veteran business enterprise that is a broker or  
16 agent and that obtains a contract pursuant to subdivision (a) shall,  
17 prior to ~~performing~~ *executing* the contract, disclose to the awarding  
18 department *or contractor* that the business is a broker or agent.  
19 The disclosure shall be made in a declaration signed and executed  
20 by each disabled veteran owner and manager of the enterprise,  
21 declaring that the enterprise is a broker or agent, and identifying  
22 the name, address, and telephone number of the principal for whom  
23 the enterprise is acting as a broker or agent.

24 (g) (1) A disabled veteran business enterprise, and each owner  
25 thereof, shall, at the time of certification, submit to the  
26 administering agency complete copies of the enterprise's federal  
27 income tax returns for the three previous tax years.

28 (2) A disabled veteran business enterprise, and each owner  
29 thereof, shall submit to the administering agency complete copies  
30 of the enterprise's federal income tax returns that have a  
31 postcertification due date, on or before the due date, including  
32 extensions.

33 (3) A disabled veteran business enterprise that, and each owner  
34 thereof who, has not submitted to the administering agency  
35 complete copies of the enterprise's federal income tax returns for  
36 the three tax years preceding certification nor for each  
37 postcertification tax year for which a return was required to be  
38 filed, shall have 90 days to submit those returns.

39 (4) A disabled veteran business enterprise that fails to comply  
40 with any provision of this subdivision shall be prohibited from

1 participating in any state contract until the disabled veteran  
2 business enterprise complies with the provisions of this subdivision.  
3 Funds expended involving a disabled veteran business enterprise  
4 during any period in which that enterprise is not in compliance  
5 with the provisions of this subdivision shall not be credited toward  
6 the awarding department's 3-percent goal.

7 (h) A disabled veteran business enterprise that fails to maintain  
8 the certification requirements set forth in this article shall  
9 immediately notify the awarding department and the administering  
10 agency of that failure by filing a notice of failure that states with  
11 particularity each requirement the disabled veteran business  
12 enterprise has failed to maintain.

13 ~~SECTION 1. Chapter 11.7 (commencing with Section 21900)~~  
14 ~~is added to Division 8 of the Business and Professions Code, to~~  
15 ~~read:~~

16  
17 ~~CHAPTER 11.7. BUSINESSES THAT PROVIDE SERVICES TO~~  
18 ~~MINORS~~  
19

20 ~~21900. (a) Any person, entity, group, or organization, whether~~  
21 ~~operating as a nonprofit or for-profit business, shall require any~~  
22 ~~person hired as an employee, independent contractor, or volunteer~~  
23 ~~to work directly and in an unaccompanied setting with minor~~  
24 ~~children to go through a criminal background check, including~~  
25 ~~being fingerprinted.~~

26 ~~(b) No person, entity, group, or organization shall hire any~~  
27 ~~person to work directly and in an unaccompanied setting with~~  
28 ~~minor children if that person is required to register pursuant to the~~  
29 ~~Sex Offender Registration Act because of a conviction for a crime~~  
30 ~~where the victim was a minor. A violation of this section shall be~~  
31 ~~punished by a civil fine of up to ten thousand dollars (\$10,000).~~

32 ~~(c) Moneys collected pursuant to this section shall be deposited~~  
33 ~~in the Safe Sports Fund, which is hereby created in the State~~  
34 ~~Treasury. Moneys in that fund shall be available, upon~~  
35 ~~appropriation, to compensate victims of sexual offenses who were~~  
36 ~~minors at the time of the offense, and their families.~~